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Paper No. 11

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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**NOV 30 2004**

**OFFICE OF PETITIONS**

In re Application of	:	
Frankenbach, et al.	:	ON PETITION
Application No. 09/805,099	:	
Filed: March 13, 2001	:	
Attorney Docket No. 8244	:	
For: METHODS FOR IMPROVING THE	:	
PERFORMANCE OF FABRIC WRINKLE	:	
CONTROL COMPOSITIONS	:	

This decision addresses two reconsideration petitions: (1) the petition under 37 CFR 1.47(a) and (2) the petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed on September 29, 2004 via facsimile.

The petition under 37 CFR 1.47(a) is **granted**.

The petition under 37 CFR 1.137(b) is **granted**.

On May 14, 2001, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioners, which set forth a two (2) month period to submit an executed oath or declaration and a \$130.00 surcharge under 37 CFR 1.16(e) for its late filing. The Office has no record of receiving a timely reply. Therefore, the application became abandoned on July 15, 2001. A Notice of Abandonment was mailed on October 28, 2003. Applicants' petition under 37 CFR 1.47(a) and petition under 37 CFR 1.137(b), filed May 14, 2004 (certificate of mailing date May 10, 2004), were dismissed on June 29, 2004 for, respectively, failure to show the non-signing inventor, Carlos Henrique Behrens, refused to join in the filing of the application and failure to submit an acceptable reply.

**PETITION UNDER 37 CFR 1.47(a)**

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

Petitioners have shown that the non-signing inventor, Carlos Henrique Behrens, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Bridget M. Harris establishes that the inventor was successfully mailed the application papers, including the specification and claims, but failed to respond to the request that he sign the enclosed declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

**PETITION UNDER 37 CFR 1.137(b)**

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

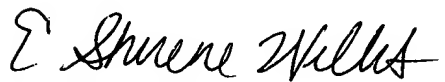
- (1) the required reply, unless previously filed;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

By obtaining Rule 47 status for the application, petitioners have now met all of the above-listed requirements.

The petition under 37 CFR 1.137(b) is granted.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

A handwritten signature in cursive script, appearing to read "E. Shirene Willis".

E. Shirene Willis  
Senior Petitions Attorney  
Office of Petitions